

### REMARKS

Reconsideration of the outstanding rejections is respectfully requested for the reasons that follow.


Claims 1, 3-5, 19-21 and 26 have been rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The same claims were also rejected under 35 U.S.C. §112, first paragraph, because the specification, while being enabling for nucleic acids encoding SEQ ID NO:2, does not reasonably provide enablement for nucleic acids that hybridize to SEQ ID NO: 1 or that hybridize to any nucleic acid that encodes SEQ ID NO:2, vectors comprising them, cells transformed with the vector and a method of using the nucleic acids to increase disease resistance in a plant. The Examiner indicated that the element c) in claim 1 caused both rejections.

Applicants note that claim 1 as amended does not recite the element c) anymore. Further, Applicants note that claims 19-21 are canceled. Therefore, it is respectfully requested that the enablement and written description rejections of claims 1, 3-5 and 26 be withdrawn.

Claims 19-21 were also rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement for lack of biological deposit of the recited microorganism. It is noted that claims 19-21 are canceled; therefore, the rejection is moot.

In view of the foregoing, it is submitted that the present application is now in condition for allowance. Reconsideration and allowance of the pending claims are requested. The Director is authorized to charge any fees or overpayment to Deposit Account No. 02-2135.

Respectfully submitted,

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